



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

September 6, 1990

Ms. Deborah L. Churchill
Assistant General Counsel
Texas Department of Criminal Justice
Pardons and Paroles Division
P.O. Box 13401, Capitol Station
Austin, Texas 78711

OR90-428

Dear Ms. Churchill:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 8711.

The Texas Department of Criminal Justice, Pardons and Paroles Division, received a request from an inmate for his psychological records. You assert these records are excepted from required public disclosure by section 3(a)(1) of the Open Records Act, which excepts information that is deemed confidential by law. You rely on article 42.18, section 18 of the Code of Criminal Procedure, which makes all information about an inmate, including his psychological records, closed to the public. See Open Records Decision Nos. 33 (1974); 11 (1973).¹ However, we need not address the applicability of this statute to the requested information because section 3B of the Open Records Act operates to grant an individual a special right of access to his own psychological records pursuant to article 5561h, V.T.C.S. See Open Records Decision No. 565 (1990).

1. Open Records Decision Nos. 11 and 33 construed article 42.12 [781d], section 27, the Adult Probation Parole, and Mandatory Supervisor Law, which is the progenitor of article 42.18, section 18, the Adult Parole and Mandatory Supervision Law. Although article 42.18 does not track the language of article 42.12, the operative language regarding the confidentiality of inmate information has the same meaning.

Article 5561h, section 2(b), provides for the confidentiality of "[r]ecords of the identity, diagnosis, evaluation, or treatment of a patient/client which are created or maintained by a professional" The psychological records in question were created by a clinical psychologist who is a professional as that term is defined in section 1 of article 5561h.² Article 5561h was intended to protect the privacy interests of the patient/client; thus, the special right of access of section 3B applies to an individual's own psychological records. See Open Records Decision No. 565. The statute does not except inmate from its definition of patient/client. See V.T.S.C. art. 5561h, § 1(b). Hence, we conclude that an inmate must be granted a special right of access to his own psychological records pursuant to section 3B of the Open Records Act as applied to article 5561h, section 2. You must release the records.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR90-428.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Opinion Committee

KHG/le

Ref.: ID# 8711, 10338

Enclosure: Open Records Decision No. 565
Documents Submitted

2. There is no indication on the records that the psychologist was supervised by a physician, a situation which would require the application of the confidentiality standards of section 5.08 of article 4495b, V.T.C.S., the Medical Practice Act. See Attorney General Opinion MW-569 (1982).